

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Noemi Martin	Team: Team # 5	CCRB Case #: 200703551	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 03/09/2007 10:30 PM	Location of Incident: Transit Bureau District 4 (inside of 14 Street-Union Square subway station)		18 Mo. SOL 9/9/2008		Precinct: 06
Date/Time CV Reported Wed, 03/14/2007 10:10 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 03/14/2007 10:10 AM		
Complainant/Victim	Type	Home Address			
Witness(es)	Home Address				
Subject Officer(s)	Shield	TaxID	Command		
1. LT Vito Labella	00000	909807	TB DT04		
Witness Officer(s)	Shield No	Tax No	Cmd Name		
1. SGT Tariq Khan	02935	914829	TB DT04		
Officer(s)	Allegation			Investigator Recommendation	
A.LT Vito Labella	Abuse: Lieutenant Vito Labella threatened to arrest § 87(2)(b) § 87(2)(b)				

Synopsis

On March 9th, 2007, § 87(2)(b) went to the Transit District 4 police station, located inside the Union Square/14th Street subway station in Manhattan to pick up her § 87(2)(b)-old son, § 87(2)(b) who was arrested. § 87(2)(b) refused to leave the station without her son. Lt. Vito Labella stated that if § 87(2)(b) did not leave the precinct, she was going to be arrested (allegation A). § 87(2)(b) said she was not doing anything wrong, that she just wanted to take her son home. Lt. Labella stated that he did not want to have to arrest her and then came out from behind the desk and grabbed § 87(2)(b)'s daughter's coat, and said, "Take your stuff and get out of my damn precinct." § 87(2)(b) told him to not put her daughter's coat on the floor and stated that she was not going to leave without her son. Lt. Labella walked towards the door of the precinct, opened the door, and told § 87(2)(b) again to leave the station. As § 87(2)(b) was leaving, she asked Lt. Labella for his name and he provided it to her. § 87(2)(b) then left the station.

The case was eligible and suitable for mediation, to which § 87(2)(b) accepted. On March 22, 2007, this case was sent to the mediation unit. On April 5, 2007, the case was returned to investigations, because the police department did not approve of Lt. Labella for mediation. On June 11, 2007, the case was reassigned from Inv. Starvos Panagouloupoulos to Inv. Andrew Hong, due to Inv. Panagouloupoulos' departure from the CCRB. On October 3, 2007, the case was reassigned to Inv. Noemi Baez, due to Inv. Hong's departure from the CCRB. § 87(2)(b), § 87(2)(g)

Summary of Complaint

§ 87(2)(b)
On March 14, 2007, § 87(2)(b) filed this complaint with the CCRB (encl.6a-b). In the initial intake statement, § 87(2)(b) alleged that Sgt. Tariq Khan used discourteous language against her by stating that she was not "fucking" taking her son home and that her son was "fucking" staying here [stationhouse]. § 87(2)(b) stated that she observed Sgt. Khan's shield with his name. § 87(2)(b) also stated that Lt. Labella called her a "spic" and told her to "get the fuck out of the station or will be locked up tonight." On March 19, 2007, § 87(2)(b) spoke with Inv. Panagouloupoulos and provided a telephone statement (encl. 7). In the telephone statement, § 87(2)(b) reiterated that Lt. Labella said "Get the fuck out of the station," but did not make any allegations against Sgt. Khan or mention the ethnic slur by Lt. Labella. On April 20, 2007, § 87(2)(b) was interviewed in-person at the CCRB (encl. 8a-e).

§ 87(2)(b) a § 87(2)(b)-old Hispanic female, is 5'7" tall and weighs 165 lbs. § 87(2)(b) in Manhattan.

On March 9th, 2007, at approximately 6:30 PM, § 87(2)(b) was arrested along with another child, § 87(2)(b). § 87(2)(b) was called and asked to come down and pick up her son from the Transit District 4 police station. § 87(2)(b) arrived at the station with her § 87(2)(b)-old daughter, § 87(2)(b). Sgt. Khan told her that she would have to wait for two detectives from Brooklyn to come to the station and interview her son. Detective Eric Sanchez and an unidentified detective, interviewed § 87(2)(b). When the interview was over, § 87(2)(b) asked the two detectives if she could take § 87(2)(b) home, and they told her she could. § 87(2)(b) went to the front of the station to wait for her son to be brought out. After approximately 10 minutes, Detective Sanchez and the unidentified detective left the station. § 87(2)(b) approached Sgt. Khan, who was at the main desk with another unidentified officer, and asked him what was taking so long with her son. Sgt. Khan told § 87(2)(b) that she was not going to take her son home. § 87(2)(a) Fam. Ct. Act § 86(1-b), § 87(2)(b)

§ 87(2)(b) unhappy with this, asked Sgt. Khan if she could speak to someone of higher rank. Approximately an hour later, Lt. Labella walked out from the back of the station and took the seat at the

main desk, while Sgt. Khan removed himself to the back. § 87(2)(b) decided to approach Lt. Labella. She asked him if she could take her son home. Lt. Labella told her that she was not going to take her son, due to the reasons mentioned by Sgt. Khan. § 87(2)(b) stated that if § 87(2)(b)'s father was allowed to take his son home, as had been the case, she should be allowed to do the same. Lt. Labella refused. § 87(2)(b) said that she was not going to leave the station until she received her son. Lt. Labella stated that if § 87(2)(b) did not leave the station, she was going to be arrested. § 87(2)(b) said she was not doing anything wrong, that she just wanted to take her son home. Lt. Labella then said, "Look, I do not want to have to arrest you." Lt. Labella then came out from behind the desk and grabbed § 87(2)(b)'s coat, which had been on a chair, and said, "Take your stuff and get out of my damn precinct." § 87(2)(b) told him to not put her daughter's coat on the floor and said she was not going to leave without her son. Lt. Labella walked towards the front door, opened the door, and told § 87(2)(b) again to leave. § 87(2)(b) said that he could not force her to leave. Lt. Labella told her that she could not hang out there. § 87(2)(b) stated that she was not hanging out, just waiting for her son. Lt. Labella told § 87(2)(b) again that if she did not leave the station, she would be arrested. § 87(2)(b) eventually left.

Results of Investigation

Civilian Witnesses

§ 87(2)(b) did not provide contact information for § 87(2)(b) who might have witnessed the incident. It was not necessary to interview this witness, because § 87(2)(b)'s own admission that she refused to leave the station.

Police Officer Statements

Lt. Labella

Lt. Labella's made no memo book entry related to this incident (encl. 10a-b). The only entry for March 9, 2007, was the hours of duty.

Sgt. Khan

Sgt. Khan made no memo book entry related to this incident (encl. 11-b). The only entry for March 9, 2007, was related to assignment.

Police Officers Not Interviewed

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g) Sgt. Khan was not interviewed, § 87(2)(g)

Police Department Documents

Command Log

According to the command log (encl. 12a-h), § 87(2)(b) was brought to the stationhouse 5:20 PM. § 87(2)(b)'s physical condition was described as "apparently normal."

Transit Bureau District 4 Roll Call

The Transit District Four Third Platoon Roll Call (encl. 13a-g) for March 9, 2007, lists Sgt. Khan as the desk officer and a lieutenant as the platoon commander, but does not list the lieutenant's name. The Roll Call documents only the hours the lieutenant's worked, as 1445 to 2320.

Disposition of Criminal Charges

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian Conviction History

§ 87(2)(b), § 87(2)(a) Fam. Ct. Act § 381.3

Civilian CCRB History

§ 87(2)(b) has no CCRB history (encl.5).

Police Officer CCRB History

Lt. Labella has twenty-one years of tenure and no previously substantiated CCRB complaints (encl. 3).
Sgt. Khan has twelve years of tenure and no previously substantiated CCRB complaints (encl. 4).

Conclusions and Recommendations

Officer Identification

§ 87(2)(b) stated that she observed Sgt. Khan's name and shield. § 87(2)(b) also stated that she asked Lt. Labella for his name and he provided it to her.

Assessment of Evidence

§ 87(2)(b), § 87(2)(g). As noted in the "Summary of Complaint" section, § 87(2)(b) made different allegations in all statements provided to the CCRB. § 87(2)(b) first stated that Sgt. Khan and Lt. Labella used cursed words against her and that Lt. Labella used an ethnic slur. Then, during the telephone statement, § 87(2)(b) did not mention the ethnic slur, but reiterated that the officers used discourteous language. Finally, at the in-person interview, § 87(2)(b) did not state that an ethnic slur or any cursed words were used, § 87(2)(g)

Note regarding the Pleading of Allegations

§ 87(2)(b), § 87(2)(g). No allegations are pleaded against Sgt. Khan, because § 87(2)(b) did not make any allegations against him in the sworn statement.

Recommended Dispositions

Allegation A: Lieutenant Vito Labella threatened to arrest § 87(2)(b)

In *Police Department v. Murray*, OATH Index No. 469/00 (encl.1a-e), Administrative Law Judge John B. Spooner stated that, "absent a showing of bad faith, the threat of arrest does not constitute misconduct as a matter of law." According to Patrol Guide Procedure 208-01 (encl. 2a-b), a police officer may make an arrest without a warrant in a situation in which there is reasonable cause to believe an offense was committed in his or her presence. § 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: